

**ENVIRONMENTAL PROTECTION AGENCY****[CA091–OPP; FRL–7517–1]****Expiration of Interim Approval of Antelope Valley's Clean Air Act Operating Permits Program in California; Announcement of a Federal Operating Permits Program****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** This notice announces that as of January 21, 2003, pursuant to EPA's title V operating permits program regulations, interim approval of the title V operating permits program in Antelope Valley Air Pollution Control District (Antelope Valley APCD or the District) has expired. EPA was unable to grant full approval to the District's title V program before the expiration date because the District could not resolve EPA's finding that California's agricultural permitting exemption in Health and Safety Code Section 42310(e) unduly restricts the District's ability to adequately administer and enforce the title V program. As a result of the expiration of the interim approval of the District's program, EPA will implement the federal operating permits program for all major stationary sources in Antelope Valley APCD.

**ADDRESSES:** Correspondence with the Region IX Air Permits Office should be mailed to EPA Region 9, Air Division, Permits Office (AIR–3), 75 Hawthorne Street, San Francisco, California, 94105.

**FOR FURTHER INFORMATION CONTACT:** Gerardo Rios, EPA Region 9, Air Division, Permits Office (AIR–3), at (415) 972–3974 or [rios.gerardo@epa.gov](mailto:rios.gerardo@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” or “our” means EPA.

**Table of Contents**

- I. Background
- II. Effect of Today's Notice
- III. Notification of Part 71 Program Effectiveness

**I. Background**

Title V of the Clean Air Act (CAA or Act) requires all state permitting authorities to develop operating permits programs that meet certain federal criteria codified at 40 Code of Federal Regulations (CFR) part 70. California has delegated responsibility for adopting and implementing the required title V permitting programs to the local air pollution control districts. On November 30, 2001, EPA approved the permitting programs for 34 air districts

in the State. 66 FR 63503 (December 7, 2001). Our approval, however, was challenged by several groups alleging that the approval was unlawful based in part on a State law provision (Health and Safety Code Section 42310(e)), which precludes local air districts from permitting major agricultural sources that would otherwise be subject to title V permitting. Because of this permitting exemption, EPA determined that the title V programs in these 34 districts were inadequate and published this determination in a Notice of Deficiency (NOD). 67 FR 35990 (May 22, 2002). The State had 90 days to take corrective action. Since the State did not take corrective action, EPA partially withdrew approval of the title V programs in these 34 districts, with the final rule effective November 14, 2002. 67 FR 63551 (October 15, 2002). In conjunction with this partial withdrawal, EPA announced that we would implement a federal title V permitting program in these districts for major agricultural sources. *Id.*

Antelope Valley APCD is a relatively new air pollution control district in California, created by the State legislature in 1997. As a result, review of the District's title V program has been independent from review of the other 34 districts' programs. Antelope Valley APCD's title V operating permits program was granted interim approval, effective January 18, 2001. 65 FR 79314 (December 19, 2000). EPA identified three deficiencies in the District's program which prevented full approval.<sup>1</sup> In the final interim approval, EPA explained that if these deficiencies were not corrected such that EPA could grant full approval of the District's program by January 21, 2003, federal law would require EPA to administer and enforce a federal permits program for the District. *Id.* at 79315.

Of the three deficiencies noted by EPA, two were corrected by Antelope Valley APCD in a timely manner (submittal dates of October 22, 2001, and June 17, 2002). The third deficiency—EPA's finding that the State's agricultural permitting exemption at Health and Safety Code Section 42310(e) unduly restricts the local district's ability to adequately administer and enforce its title V program—has not been corrected by the State. This is the same deficiency identified in the NOD regarding the inadequacy of the title V programs for

the 34 other districts (*see* 67 FR 35990, May 22, 2002). Because this deficiency has not been corrected and interim approval of the District's program has expired, EPA must implement and enforce the part 71 program for major stationary sources, including major stationary agricultural sources, in Antelope Valley APCD. EPA will continue to implement the title V permitting program in the District until the permitting exemption in state law is removed and EPA grants full approval to the District's program.

**II. Effect of Today's Notice**

As a result of the expiration of the interim approval, EPA began implementation of the part 71 program for major stationary sources in the Antelope Valley APCD, effective January 21, 2003. EPA is not promulgating a part 71 program with today's notice, since such a program has already been promulgated by the Agency. *See* 61 FR 34202 (July 1, 1996). The purpose of today's notice is to inform the public that the interim approval of Antelope Valley APCD's title V program has expired and that EPA is now implementing the federal part 71 permitting program for major stationary sources, including major stationary agricultural sources, in the District.

Pursuant to 40 CFR 71.5(a)(1)(i), major stationary sources which do not have an existing operating permit issued by a State (or local permitting authority) under an approved part 70 program, and which are applying for a part 71 permit for the first time, must submit an application within 12 months after becoming subject to the permit program or on or before such earlier date as the permitting authority may establish. For Antelope Valley APCD, the deadline will be 12 months after January 21, 2003. Therefore, major stationary sources (including major stationary agricultural sources) that do not have a title V permit are required to submit part 71 permit applications to the EPA Region IX Permits Office (*see* **ADDRESSES** section) no later than January 21, 2004. Existing major stationary sources planning to undergo modification(s) should note that applications or supplemental information for a pending application should be sent to the EPA Region IX Permits Office and that EPA will review the application.

The deadline for submitting fees depends on the type of source or, more specifically, on the source's SIC code. Pursuant to 40 CFR 71.9(f)(1)(i), agricultural sources have six months from the effective date of the part 71 program. Therefore, agricultural sources

<sup>1</sup> In addition to the permitting exemption for agricultural sources described above, EPA also directed the District to address inconsistencies between District rules and federal requirements governing reopening of certain permits and emission cutoffs for insignificant sources.